



# RAILWAYS SENIOR CITIZENS WELFARE SOCIETY

(Estd. 1991, Regd. No. 1881 – Under Registration of Societies Act),

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Identified & Recognised by DOP&PW GOI under Pensioners Portal

No. RSCWS/ CHD/Memo/2017-6

Dated: 1- 5 -2017

Shri Jitendra Singh,  
Hon. MOS Personnel, PG & Pension, GOI,  
North Block, New Delhi-110001

Dear Sir,

**Subject: Revision of Pension of Pre 2006 Pensioners – Reg: Benefit of Upgraded / Merger of Posts by 6<sup>th</sup> CPC for fixing of Minimum of Revised pension of Pre-2006 Pensioners**

**Reference:-** i) Resolution of GOI No. 38/37/08-P&PW (A) dated 29-8-08 & OM Dated 1-9-08,  
ii) DOP&PW O.M. F.No. 38/37/08-P&PW (A) dated 3-10-08, 14-10-08 & 11-2-09  
iii) Judgement of CAT Bangalore in OA 231 & 253/2012 Parthasarthy-vs-UOI  
iv) Judgement of Karnataka High Court in WP No.5522 & 55223/2013 UOI-Vs-Parthasarthy  
v) RSCWS Memorandum to Hon. PM No. RSCWS/CHD/2015-7 Dated 12-4-2015  
vi) RSCWS Memoranda to DOP&PW Dated 24-2-2016, 12-9-2016 & 21-1-2017

1. **Preamble:** We, as being an Identified Association of Pensioners' under the Pensioners Portal for redressal of grievances of the Pensioners, very earnestly request you to please grant the benefit of the upgraded posts as per Report of the Sixth Pay Commission, for the fixation of the Revised Pension of all the affected Pre 2006 Pensioners, so as not to be lower than 50% of the sum of the Pay in Pay Band plus the Grade Pay of the corresponding upgraded scale from which the Pensioner retired – keeping in view the judgements of the various Courts Cited above as well as the assurances given by the learned Counsels of the Government in the Courts that the orders of the CAT Bangalore and in Karnataka High Court cited above in this regard, shall be implemented.

## 2. **Facts of the Case:**

a) **Pay scales upgraded by 6<sup>th</sup> CPC:** Pay Scales of some Categories were Merged and upgraded by Sixth Pay Commission and accepted by the Government vide Part B of the Revised Pay Rules 2008 (as Notified vide OM Dated 1-9-2008 cited above) – including the following:

- i) Pay Scale of Rs.4500-700 had been upgraded to Rs.5000-8000 and placed in PB-2 Grade Pay of Rs.4200.
- ii) Pay Scale of Rs.5000-8000 & Rs.5500-9000 were merged & upgraded to Rs.6500-10500 and placed in PB-2 in Grade Pay of Rs.4200;
- iii) Pay Scale of Rs.6500-10500 was upgraded & merged with scale Rs.7450-11500 and placed in PB-2 & Grade Pay Rs.4600.

b) **Benefit of upgrading of Posts denied to Pre-2006 Pensioners:** DOP&PW (*vide its OM Dated 11-2-2009*) decided that the Benefit of Upgrading of Posts shall not be given for fixation of Revised (Minimum) Pension of Pre-2006 Pension.

c) It was an executive order not in conformity with the Resolution dated 29-8-2008 of Government of India cited above.

3. **Courts quash the orders of DOP&PW:** Hon'ble Courts including the Supreme Court of India in their judgments cited above have quashed / upheld the quashing of the related orders of the DOP&PW's OMs dated 3-10-2008, 14-10-2008 and 11-2-2009 (cited above).

**4. CAT Bangalore Cites judgment of CAT Delhi in OA 655/2010 which quashed Orders of DOP&PW & Directed for “Refixation of Pension of “All Pre-2006 Pensioners” as per Resolution Dated 29-8-202008:**

CAT Bangalore in their judgment on OA 231 & 253/2012 (G. R. Parthasarthy-vs-Union of India) Reg benefit of upgraded posts for fixation of Pension of Pre-2006 Pensioners, had directed for re-fixation of Pension of all Pre-2006 Pensioners as per legal position set out in the CAT Delhi judgment in OA 655/2010 - in which Respondents were directed “to re-fix the pension of all pre-2006 retirees w.e.f. 1.1.2006, based on the resolution dated 29.08.2008 and in the light of our observations made above. Let the respondents re-fix the pension and pay the arrears thereof -----”

**5. Karnataka High Court linked the Case with decision of SLP pending in Supreme Court:**

Karnataka High Court, Bangalore in their Orders dated 6-3-2014 in WP No. 55222 & 55223 / 2013 (Union of India –Vs- G. R. Parthasarthy had observed”and directed as under:

“1) The learned counsel for the parties submit that the **question involved in these petitions are identical to the question raised by the Union of India before the Hon’ble Supreme Court in SLP No. 36148-36150/2013 and connected Civil Appeal No. 8875-8876/2011. He further submits that if the SLP filed by the Union of India were to be dismissed, then the petitioners have to comply with the order of the Central Administrative Tribunal.**

“3) In view of the submission of the learned counsel for the parties, these writ petitions are disposed off **directing the petitioners to comply with the directions issued by the Central Administrative Tribunal in these matter in the event the SLP filed by the Union of India were to be dismissed ----- “**

**6. Directions of Courts not implemented:**

a) The Special Leave Petitions (SLPs) Nos. 23055/2013 & 36148-36150/2013 UOI-Vs-SAG(S-29)PA & Others had been dismissed by the Hon’ble Supreme Court vide their common orders dated 17-3-2015 upholding the Judgment of CAT New Delhi in OA 655 Dated 1.11.2011 SAG(S-29)PA-Vs-UOI and the related judgement of the Delhi High Court in WP ----- dated .

b) Regrettably, DOP&PW has still not implement the Orders of CAT Bangalore in the above said case (Parthasarathy-Vs-UOI) – as per assurance given by the Learned Counsel of UOI and the directions of the Karnataka High Court Bangalore in the case cited above still remain to be complied with.

c) DOP&PW vide their O.M. F.No. 38/37/08-P&PW (A) dated 30-7-2015, had only partially complied with the directions of Supreme Court in SLP Nos. 23055/2013 & 36148-36150/2013 and the related CAT Delhi orders dated 1-11-2011 in OA 655/2010 where in the OM Dated 3-10-2008, 14-10-2008 and 11-2-2009 had all been quashed.

d) DOP&PW vide its OM dated 30-7-2015, had decided that the revised pension w.e.f. 1.1.2006, in no case, shall be lower than 50% of the sum of the minimum of pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired thereby modifying its earlier orders of 3-10-2008 and 28-1-2013.

e) However, orders are yet to be issued in respect of revision of Pension as per pay scales of merged/upgraded posts as per judgment of CAT Bangalore and Karnataka High Court cited above. Since the DOP&PW OM dated 11-2-2009 – *which debarred the benefit of upgraded scales for revision of Pension* - had been quashed by the Courts, there was no reason for denying the said benefit to the affected Pensioners.

**7. Respondents assured in CAT Bangalore to implement CAT judgement in toto:**

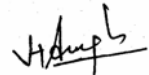
Learned Counsel of the Respondents in Contempt of Court Case in CAT Bangalore in CP 237/2015 in OA 231/2013 (Parthasarthy-Vs-UOI) had conveyed to the Court during the

hearing in CAT Bangalore on 12-4-2017, that the approval had been communicated to the Department of Communication to implement the judgement in toto.

8. Confining the said benefit of up-gradation only to the applicants while denying the same to the other Pre-2006 Pensioners, is discriminatory and against the law of natural justice as it violates Articles 14 and 16 of the Constitution of India as repeatedly held by the Supreme Court in numerous cases.

9) It is, therefore, requested that Pre-2006 Pensioners be given the benefit of upgraded Pay Band and Grade Pay of the post from which they retired so that, minimum pension be not lower than 50% of the sum of the pay in the revised upgraded pay band plus the grade pay corresponding to the post from which the pensioner had retired

*Yours faithfully,*



**(Harchandan Singh)**  
**Secretary General, RSCWS**

**Copy for information & favourable consideration to:**

1. **Secretary, Finance (Expenditure), North Block, New Delhi-110001**
2. **Secretary, Personnel AR/ PG & Pension, Patel Bhawan, New Delhi – 110001**
3. **Secretary, Legal Affairs, Room No.404, A-Wing, Shastri Bhawan, , Dr Rajendra Prasad Road, New Delhi - 110001**
4. **Mrs. Vandana Sharma, Additional Secretary, Department of Pensions & Pensioners' Welfare, 3<sup>rd</sup> Floor, Lok Nayak Bhawan, Khan Market, New Delhi – 110003**